

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

BRYAN E. RANSOM,

Plaintiff,

vs.

TERRENCE F. SHEEHY, et al.,

Defendants.

CASE NO. 07cv1598 BEN (PCL)

**ORDER ADOPTING REPORT  
AND RECOMMENDATION  
GRANTING DEFENDANTS'  
MOTION TO DISMISS**

Plaintiff, a state prisoner, has filed a First Amended Complaint against several prison staff members for violations of civil rights under 42 U.S.C. § 1983 and California state law. Defendants moved to dismiss on various grounds. On October 24, 2008, Magistrate Judge Peter C. Lewis issued a Report and Recommendation recommending the Motion to Dismiss be granted. No objection has been filed.

Title 28 U.S.C. § 636 (b)(1)(C) provides: “A judge of the [district] court shall make a *de novo* determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection is made.” Thus, the governing statute “makes it clear that the district judge must review the magistrate judge’s findings and recommendations *de novo* if objection is made, but not otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (emphasis in original) (“Neither the Constitution nor the statute requires a district judge to review, *de novo*, findings and recommendations that the parties themselves accept as correct.”); *Wang v. - Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005) ( “Of course, *de*

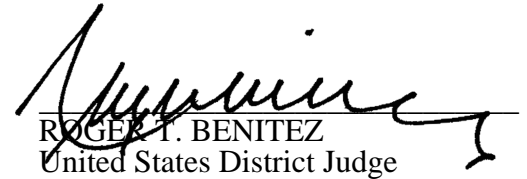
1 *novo* review of a [Report] is only required when an objection is made to the [Report].” ).

2 This Court adopts the Report and Recommendation and **GRANTS** Defendants’ Motion to  
3 Dismiss the First Amended Complaint, without prejudice.

4 Plaintiff is given leave to file a Second Amended Complaint to cure any deficiencies,  
5 providing such pleading is filed no later than January 5, 2009.

6 **IT IS SO ORDERED.**

7 DATED: November 21, 2009

  
ROGER T. BENITEZ  
United States District Judge